

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ANDREW GONZALEZ

Plaintiff.

v.

L J ROSS ASSOCIATES, INC.

Defendant.

CIVIL ACTION NO: 4:15-CV-00134-Y

AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff Andrew Gonzalez complains of L J Ross Associates, Inc. Defendant, and for

cause of action would respectfully show as follows:

NATURE OF ACTION

1. This is an action for damages brought by individual, Plaintiff Andrew Gonzalez against Defendant L J Ross Associates, Inc. for violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A) and 47 U.S.C. § 227(b)(1)(A)(iii).
2. Plaintiff contends that the Defendant has violated such laws by calling Plaintiffs cellular telephone with recorded messages using an automatic telephone dialing system as defined by the Telephone Consumer Protection Act, 47 U.S.C. § 227(a)(1) without express consent to do so.

JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 47 U.S.C. §227(b)(3).
4. This Court has jurisdiction over Defendant pursuant to 28 U.S.C. §1391b because Defendant engages in business within this state, to wit debt collection.
5. Venue is proper pursuant to 28 U.S.C. §1391b and 47 U.S.C. §227(b)(3).
6. Venue in the Northern District of Texas, Fort Worth Division is proper in that the Plaintiff resides in State of Texas, Tarrant County, City of Fort Worth, the Defendant transacts business here, and the conduct complained of occurred here.
7. All conditions precedent to the bringing of this action, have been performed.

PARTIES

8. The Plaintiff in this lawsuit is Andrew Gonzalez, a natural person and a citizen of Tarrant County, Texas.
9. Defendant in this lawsuit is L J Ross Associates, Inc. (herein after “L J Ross”) with principal office at 4 Universal Way, Jackson, MI 49204.
10. L J Ross may be served with process by serving its registered agent for service of process: Rebecca Roberts, 4 Universal Way, Jackson, MI 49204.
11. L J Ross is a “debt collector” as defined by 15 U.S.C. § 1692a(6).
12. L J Ross is in the business of collecting consumer debts using the mails and telephone and regularly collects, or attempts to collect, consumer debts owed, or alleged to be owed, to another person.

FACTUAL ALLEGATIONS

13. The telephone number (815) 516-6677 is assigned to a cellular telephone belonging to the Plaintiff Andrew Gonzalez.
14. The telephone numbers (800) 530-3790 is a number which is assigned to L J Ross to use in their daily business operations.
15. **See Exhibit A**, L J Ross called the cellular telephone number (815) 516-6677 from telephone number (800) 530-3790 on the following dates and times:
 1. July 24, 2014 at 09:16 a.m.
 2. July 24, 2014 at 10:55 a.m.
 3. July 28, 2014 at 03:34 p.m.
 4. July 29, 2014 at 10:46 a.m.
 5. August 01, 2014 at 10:42 a.m.
 6. August 06, 2014 at 02:55 p.m.
 7. August 13, 2014 at 01:58 p.m.
16. On August 01, 2014 at 10:42 a.m., the call was answered and Plaintiff was greeted with a recorded message.
17. Plaintiff answered the telephone calls on August 01, 2014 at 10:42 a.m. and August 13, 2014 at 01:58 p.m., Plaintiff was charged each time he answered the incoming telephone calls from L J Ross.
18. In the telephone communications in question here, Defendant L J Ross used an automatic telephone dialing system to dial the wireless cellular phone number (815) 516-6677.
19. In the telephone communications in question here, Defendant L J Ross used an automatic telephone dialing system to dial the wireless cellular phone number (815) 516-6677 for a non-emergency purpose.
20. At no time has the Plaintiff given his express consent, written or otherwise, to L J Ross to call his wireless cellular telephone.
21. Plaintiff has no prior or present established relationship with L J Ross.

22. Plaintiff has no contractual obligation to pay L J Ross any alleged debt.
23. On September 03, 2014 Plaintiff sent a letter via United States Postal Service Certified Mail informing L J Ross said actions were a violation of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A) and 47 U.S.C. § 227(b)(1)(A)(iii). This was in an effort to amicably resolve the matter prior to litigation.
24. All violations complained of herein occurred within the statute of limitations of the applicable federal statutes.

COUNT I

VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT 47 U.S.C. §227(b)(1)(A) BY DEFENDANT L J ROSS ASSOCIATES, INC.

25. Paragraphs 1 through 24 are re-alleged as though fully set forth herein.
26. Plaintiff and L J Ross do not have an established business relationship within the meaning of 47 U.S.C. §227(a)(2).
27. L J Ross called Plaintiff's cellular telephone using an "automatic telephone dialing system" within the meaning of 47 U.S.C. §227(a)(1).
28. 47 U.S.C. §227(b)(1)(A) which states in part;
- (b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—
- (1) PROHIBITIONS.—It shall be *unlawful for any person* within the United States, or any person outside the United States if the recipient is within the United States—
- (A) *to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—*
29. In each telephone communication referenced in ¶15, L J Ross has demonstrated willful or knowing non-compliance with 47 U.S.C. § 227 (b)(1)(A) by using an automatic telephone dialing system or used a telephone dialing system that has the *capacity* to

automatically call the Plaintiff's cellular telephone number (815) 516-6677, which is assigned to a cellular telephone service *with no prior express consent* and for *no emergency purpose*.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;
- b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- d) Awarding such other and further relief as the Court may deem just and prop

COUNT II

**VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. §227(b)(1)(A)(iii) BY DEFENDANT L J ROSS ASSOCIATES, INC.**

30. Plaintiff alleges and incorporates the information in paragraphs 1 through 29.

31. 47 U.S.C. §227(b)(1)(A)(iii) which states in part;

(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

(1) PROHIBITIONS.—It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

32. In each telephone communication referenced in ¶15, L J Ross has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b)(1)(A)(iii) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the *capacity* to automatically call the Plaintiff's number (815) 516-6677, which is *assigned to a cellular telephone service*.

33. In the telephone communications referenced in ¶17, L J Ross has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b)(1)(A)(iii) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the capacity to automatically call the Plaintiff's cellular phone number (815) 516-6677, which the Plaintiff was charged for the telephone calls.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

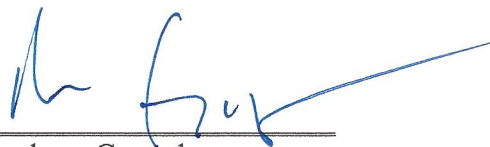
- e) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;
- f) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- g) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- h) Awarding such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff is entitled to and hereby demands trial by jury.

Dated: April 14, 2015

Respectfully Submitted,



Andrew Gonzalez
416 Chatamridge Court
Fort Worth, TX 76052
(817) 975-5655
gonandrew@yahoo.com

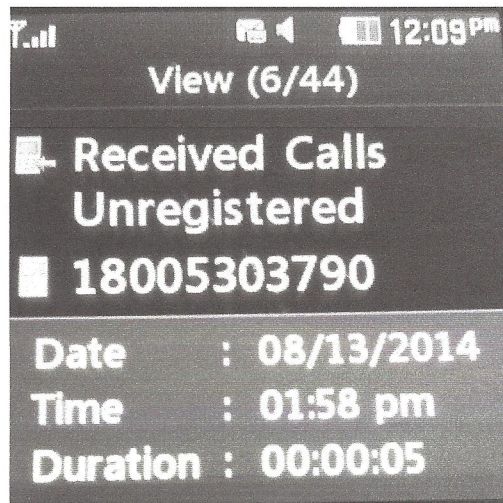
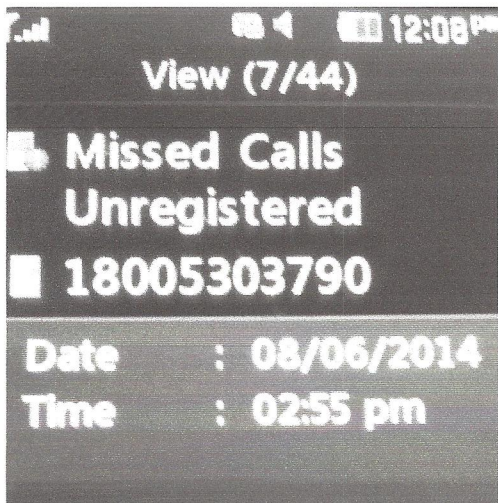
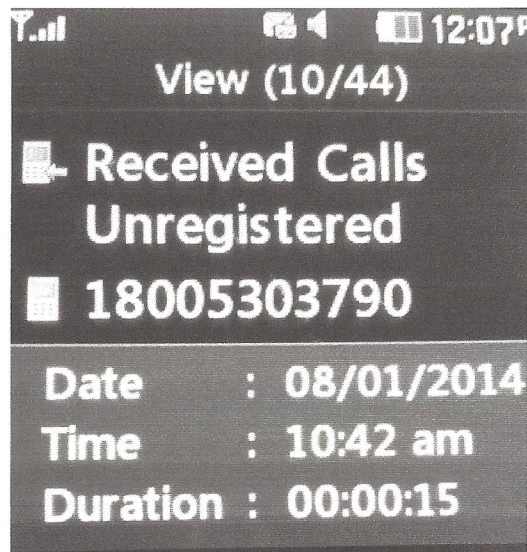
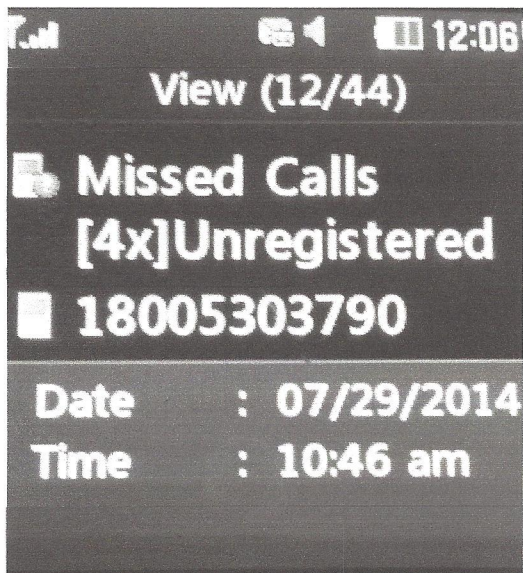
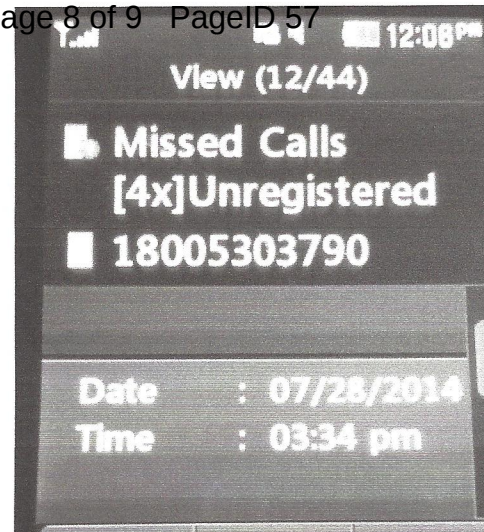
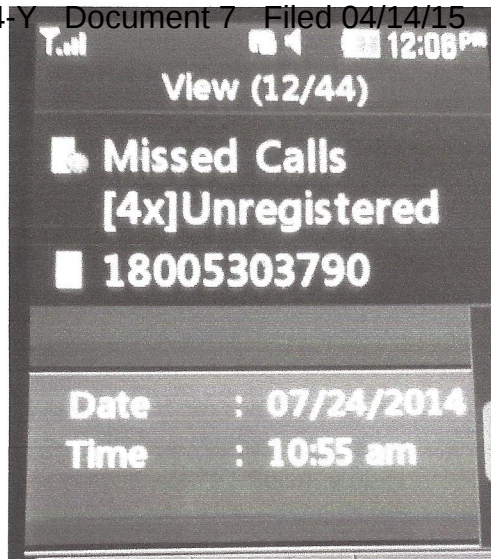
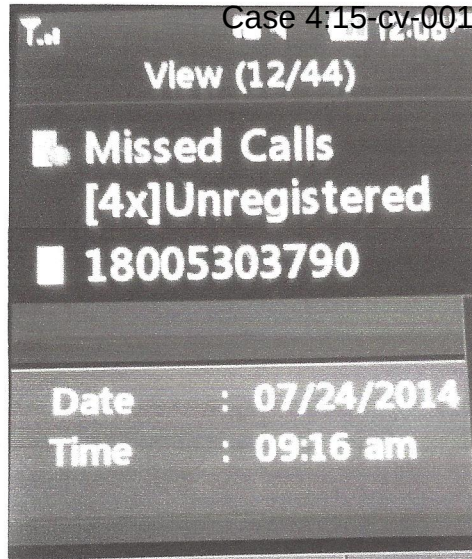
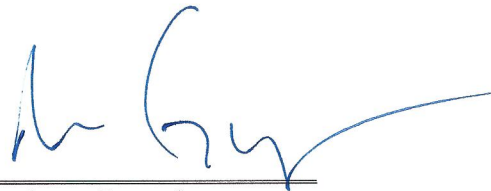


EXHIBIT A

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2015, a copy of the above and foregoing was filed with the Clerk of Court. Notice of this filing has been forwarded to all counsel of record by electronic email and operation of the Court's electronic filing system

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